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9 UNITED STATES DISTRICT COURT
10 DISTRICT OF OREGON

11 TAMIE RICHARDSON,

12 Plaintiff,

13 vs.

14 First Horizon Home Loan Corporation,

15 Defendant.

Case No.: 10cv3073

REPLY MEMORANDUM IN SUPPORT
OF MOTION FOR PROTECTIVE
ORDER/ ORDER TO QUASH
DEPOSITION OF WANDA COLLIER

16 COMES NOW the Defendant, First Horizon Home Loan Corporation ("Responding
17 Party"), by and through their attorney of record, Holger Uhl of McCarthy & Holthus, LLP,
18 and replies to the Plaintiff's Response To Motion To Quash Deposition of Wanda Collier:

19 **THE DOCUMENTS SIGNED BY WANDA COLLIER WERE PROPERLY SIGNED**

20 Plaintiff is alleging that Wanda Collier "forged" documents and that therefore she needs
21 to depose her to prove she is a "robo signer." The alleged documents that Wanda Collier is
22 alleged to have "forged" are

23 Appointment of Successor Trustee, dated 10/16/2009, signed before a notary on
24 11/5/2009 and recorded 11/16/2009 as Instrument No. 2009-017906, records of Josephine
County Oregon.

25 Assignment dated 4/28/2009, signed before a notary on 12/8/2009 and recorded
1/12/2010 as Instrument No. 2010-05248, records of Josephine County Oregon.

REPLY MEMORANDUM

M&H# OR10-7486

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1 Assignment of Deed of Trust dated 10/16/2009, signed before a notary on 12/8/2009 and
 2 recorded 12/28/2009 as Instrument Number 2009-020021, records of Josephine County
 3 Oregon.

4 The sole basis for her allegation that these documents are "forged" is that they are dated
 5 for one date, but are signed on another. For example, Instrument Number 2009-017906, is
 6 dated 10/16/2009, but the acknowledgement itself is dated 11/5/09. From this Plaintiff takes
 7 that Wanda Collier signed the instrument on 10/16/2009, but that the notary did not
 8 acknowledge the signature until 11/5/2009. That misreads the instrument. The, Notary
 9 Randolph Boyd, Jr., acknowledged that Wanda Collier signed on 11/5/2009 an instrument
 10 that was dated 10/16/2009. There is no requirement under Oregon law that requires that an
 11 instrument has to be dated for the same date that it is signed.

12 More importantly, the argument by Plaintiff misunderstands the reason for an
 13 acknowledgement. It is an administrative act only. A document without an acknowledgment
 14 or even with a defective acknowledgment is still a valid document and not a "forgery."
 15 *Clatsop County v. Wuopio*, 95 Ore. 30, 33 (Or. 1920). Even if an acknowledgment is proven
 16 to be false, it does not affect the validity of the instrument itself. *Houck v. Darling*, 238 Ore.
 17 484 (Or. 1964).

18 WANDA COLLIER HAD APPARENT AUTHORITY

19 In addition Plaintiff seeks documentation to show that Wanda Collier had the authority to
 20 act as she did. Again this quest is based on an error of law. Even assuming that Plaintiff can
 21 show that Wanda Collier did not have actual authority, her acts are valid nevertheless since she
 22 had apparent authority. It is black letter law that the acts of an agent can bind the principal if
 23 authority can be "fairly inferred from circumstances." *Hannan v. Greenfield*, 36 Ore. 97, 103-
 24 104 (Or. 1899). The agents authority rests on "the intention of the principal to be bound by the
 25

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1 acts and contracts of his agent," it may be "inferred from apparent authority, by proving that the
 2 principal knowingly permitted the agent to assume [powers] or that he held the agent out to the
 3 public as possessing the necessary power." *Connell v. McLoughlin*, 28 Ore. 230, 233-234 (Or.
 4 1895). In addition, Plaintiff is fully aware of the servicing agreements and the public record that
 5 confirms that the assignments and appointments were properly authorized.

6 Thus the evidence that Plaintiff seeks is neither relevant nor is it likely to lead to the
 7 discovery of relevant evidence.

8 **PLAINTIFF'S DEMAND FOR DOCUMENTS TO BE GENERATED EXCEEDS THE**
 9 **SCOPE OF ALLOWABLE DISCOVERY**

10 In addition to exploring discovery areas that lead to nothing, Plaintiff is also demanding
 11 that defendants produce "affidavits." This demand to create documents to Plaintiff's satisfaction
 12 clearly exceeds the scope of allowable discovery. There is no reason and no justification for
 13 those demands.

14 **PLAINTIFF HAS NO LEGITIMATE PURPOSE FOR THE DISCOVERY SHE IS**
 15 **SEEKING.**

16 In her lawsuit Plaintiff seeks a permanent injunction to prevent the defendant from
 17 foreclosing her property under various theories that boil down to the allegation that the Defendant
 18 (who is not the trustee that is actually doing the foreclosure) failed to follow proper procedures
 19 and cannot show it has the right to enforce the admitted debt. Defendant has already produced
 20 the documents showing that there is a proper chain of title, and that the requirements of Oregon
 21 Statute with respect to processing a foreclosure have been followed. In addition, the Defendant
 22 has produced evidence to show that it has possession of the original promissory note. None of
 23 the discovery that Plaintiff is seeking has any bearing on the summary judgment motion that
 24 Defendant filed. Her discovery requests are accusations, not questions, and based on internet
 25

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1 rumors and myths that create needless costs and burdens upon the Defendant. They are designed
2 to harass, not to discover relevant facts.

3 **CONCLUSION**

4 For the reasons stated above Defendant respectfully requests that the deposition of Wanda
5 Collier be permanently quashed, or in the alternative, that her deposition and the production of
6 documents will be limited to a reasonable scope.

7
8 DATED: January 12, 2010

9 /s/ Holger Uhl

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

Tamie Richardson,

Case No.: 10CV3073

Plaintiff,

DECLARATION OF SERVICE

vs.

First Horizon Home Loan Corporation,

Defendants.

The undersigned certifies that: On January 12, 2011, I served the documents described as *Reply Memorandum in Support of Motion for Protective Order/Order to Quash Deposition of Wanda Callier* on the following individuals by depositing true copies thereof in the United States mail at Poulsbo, WA, enclosed in a sealed envelope, with postage paid, addressed as follows:

DEFENDANT(S)

DEFENDANT(S) COUNSEL:

Tamie Richardson
746 Bailey Drive
Grants Pass, OR 97527

Pro Se

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

/s/ Melissa Rice
Melissa Rice
Legal Assistant
McCarthy & Holthus, LLP

Declaration of Service
- 1

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